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10/590,449	07/30/2007	Ronald Symens	CTA. P0003	8464

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EXAMINER

MAZUMDAR, SONYA

ART UNIT	PAPER NUMBER
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1791

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/590,449	Applicant(s) SYMENS ET AL.	
	Examiner SONYA MAZUMDAR	Art Unit 1791	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 December 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7,9 and 15-17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7,9 and 15-17 is/are rejected.
- 7) ☒ Claim(s) 17 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. Applicant's amendments, see pages 2-4 in remarks filed December 21, 2009, with respect to the rejections in view of Kokobu et al. (US 6,144,033) and Tanaka et al. (JP 2003-200721), have been fully considered, but are moot in view of the new grounds of rejection.

Furthermore, Kokobu et al. teach a tire labeling system for positioning a label on the surface of a tire, comprising a single applicator (20) configured to receive the label for placement on the tire, with a horizontal drive unit (10) (i.e. first guide) for moving the applicator along the first axis, a rotating mechanism (8) (i.e. second guide) for a shaft (9) supported by the drive unit for moving the applicator along a second axis (X-X), and a cylinder actuator (26) (i.e. third guide) supported by the second guide for pushing the applicator along the third axis and towards a tire (1) (column 3, lines 17-63; column 4, lines 54-58; Figure 3), to pick up the label and apply the label to the tire. The claims, as interpreted, although providing a tire that is maintained within a stack, do not specifically disclose applying labels to specific tires while they are in the stack.

Claim Objections

2. Claim 17 is objected to because of the following informalities:

“selectively applying a vacuum a rotatable head” should be corrected to form an appropriate sentence.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

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The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 1-7 and 9 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

5. Claim 1 recites the limitation "said rotatable head" in line 20. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

8. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was

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not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

9. Claims 1 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kokobu et al. (US 6,144,033) in view of Nishimoto (EP 1504881)

Kokobu et al. teach a tire labeling system for positioning a label on the surface of a tire, comprising:

- a marking device with a print head for printing identification information on a label to be attached to a tire (column 6, lines 6-16),
- a single applicator (20) configured to receive the label for placement on the tire,
- a frame (7) carrying the applicator, the frame facilitating movement of the applicator,
- a horizontal drive unit (10) (i.e. first guide) for moving the applicator along the first axis,
- a rotating mechanism (8) (i.e. second guide) for a shaft (9) supported by the drive unit for moving the applicator along a second axis (X-X), and
- a cylinder actuator (26) (i.e. third guide) supported by the second guide for pushing the applicator along the third axis and towards a tire (1) (column 3, lines 17-63; column 4, lines 54-58; Figure 3), to pick up the label and apply the label to the tire.

Although Kokobu et al. teach sorting tires by the label and an image processing device (31) in communication with a controller (35) to print an appropriate mark,

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(column 5, lines 12-14 and lines 31-42), Kokubu et al. do not teach providing a computer adapted to receive a specific tire's information and position. However, it would have been obvious for one having ordinary skill in the art to do so, as Nishimoto teaches label printing-and-attaching machine (10) with an inkjet printer (11) and tire data reading means. The tire data is printed in order of the different types of tires and the labels printed with the tire data specifying the different types of tires can be correctly attached to the different types of tires, even if the different types of tires are in random order, and the productivity and the flexibility of the tire production line can be improved. It is well-known in the art to be controlled by a computer (paragraphs 0010 and 0035; Figure 3).

10. Claims 2 through 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kokubu et al. in view of Nishimoto, as applied to claim 1 above, and further in view of Tomosada et al. (JP 2003-221021).

The teachings of claim 1 are as described above.

With respect to claim 2, Kokubu et al. in view of Nishimoto do not specifically teach a second guide that is a cross member, supported by two first guides for movement along the first axis. However, it would have been obvious for one having ordinary skill in the art to do so, as Tomosada et al. teach a pedestal (15) which is tilted by a position substitute means (5), supported by guides of a torque limitation machine (paragraphs 0020-0022; Figures 4 and 5), to provide enough structural support for a label applicator to be moved multiple directions and apply a label onto a tire.

With respect to claim 3, Kokobu et al. in view of Nishimoto and Tomosada et al. teach a third guide that is a post that can be moved vertically, the post supported by the second guide for movement along the horizontally (Tomosada: paragraph 0021; Figure 4).

With respect to claim 4, Kokobu et al. in view of Nishimoto and Tomosada et al. teach a carriage carrying the applicator (31) is supported by the post, the carriage being moveable on the post vertically.

With respect to claim 5, Kokobu et al. in view of Nishimoto and Tomosada et al. teach an applicator to include an arm rotatably attached to the carriage, the arm being rotatable between a pick-up position and an application position (Tomosada: Figure 5).

With respect to claim 6, Kokobu et al. in view of Nishimoto and Tomosada et al. teach providing an applicator to include a head having a surface for receiving the label, the head being repositionable, according to movement of the arm, and movement of the applicator along different axes, to pick up the label and apply the label to the tire (Tomosada: paragraphs 0022-0023; Figure 5).

11. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kokobu et al. in view of Nishimoto and Tomosada et al., as applied to claims 1 and 6 above, and further in view of Tanaka et al. (JP 2003-200721)

The teachings of claim 6 are as described above.

Kokobu et al. in view of Nishimoto and Tomosada et al. do not specifically teach providing the surface of an applicator with an opening and in communication with a vacuum line adapted to selectively apply a vacuum to pick up the label. However, it

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would have been obvious to one having ordinary skill in the art to do so, as Tanaka et al. teach connecting a label attachment device to a vacuum means to assist in picking up labels to apply to tires, as managed by a control device (Tanaka: paragraphs 0009, 0018, 0020, and 0027).

12. Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kokubu et al. in view of Nishimoto.

Kokubu et al. teach applying labels onto tires, comprising the steps of:

- supplying tire information regarding the tire to a computer;
- instructing a printer to print the tire information on a label;
- using an applicator on a rotatable arm to remove the label from the printer;
- moving the applicator along three axes to apply the label to the tire (column 3, lines 17-63; column 4, lines 54-58; Figure 3).

Tanaka et al. do not teach providing tires in a stack and applying labels to a specific tire from the stack. However, it would have been obvious for one having ordinary skill in the art to do so, as Nishimoto that it is well-known in the art to apply printed labels with an identification code (barcode) to one lot of the same or different type of tires (paragraph 0004 and 0071).

13. Claims 16 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kokubu et al., as applied to claim 15 above, and further in view of Lundell (US 5,264,066).

The teachings of claim 15 are as described above.

With respect to claim 16, Kokubu et al. do not specifically teach printing a label that is self-adhesive and mounted on a backing. However, it would have been obvious to one having ordinary skill in the art to do so, as Lundell teaches printing self-adhesive labels (504) on a backing web (502), separating the labels from the backing web, and applying the labels to tires (abstract; column 7, lines 33-52), as self-adhesive labels would be ready for application instead of requiring a separate step of applying adhesive prior to attaching labels.

With respect to claim 17, Lundell teaches that it would have been obvious to one having ordinary skill in the art to help extract labels from a backing web by selectively applying a vacuum to an applicator (400) to separate a label (504) from the backing (abstract; column 6, lines 3-13; column 14, line 65 – column 15, line 55; Figure 14).

Conclusion

14. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to SONYA MAZUMDAR whose telephone number is (571)272-6019. The examiner can normally be reached on 9:00 AM - 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Philip Tucker can be reached on (571) 272-1095. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

SM

/Philip C Tucker/

Supervisory Patent Examiner, Art Unit 1791